

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

SUN LIFE ASSURANCE COMPANY OF
CANADA,

Plaintiff,

v.

JANICE KUMM AND DEANN KUMM, as
co-personal representatives of the ESTATE OF
GAYLORD KUMM; DEANN KUMM;
ESTATE OF GAYLORD KUMM; BEN
KUMM; GLEN R. KUMM; STARR KUMM
n/ka Starr Wallace; GERALD BRYCE; JAMES
GRENDALL; BRYAN REIL; JENIFER
GRENDALL; and PARADIGM FINANCIAL
SERVICES, LLC,

Defendants.

JANICE KUMM AND DEANN KUMM, as
co-personal representatives of the ESTATE OF
GAYLORD KUMM; DEANN KUMM;
ESTATE OF GAYLORD KUMM; BEN
KUMM, GLEN R. KUMM, and STARR
KUMM n/ka Starr Wallace,

Third-Party Plaintiffs,

v.

GERALD BRYCE, JAMES GRENDALL,
BRYAN REIL, and PARADIGM FINANCIAL
SERVICES, LLC,

Third-Party Defendants.

No. 8:08-CV-290

**PLAINTIFF'S MOTION FOR PARTIAL
SUMMARY JUDGMENT**

COMES NOW Plaintiff, Sun Life Assurance Company of Canada (“Sun Life”), and moves this Court for an Order of Summary Judgment in its favor on its First and Second Claims for Relief presented in its Second Amended Complaint (Filing No. 152) and claims presented by Defendants in their Counterclaim (Filing No. 19) because there is no genuine issue of material fact in relation to such claims and Sun Life is entitled to judgment as a matter of law.

Sun Life moves this Court for an Order of Summary Judgment in its favor on the following bases:

1. Gaylord Kumm, under the undisputed facts and as a matter of law, knowingly made false representations to Sun Life with the intent to deceive Sun Life. Reasonably relying upon Gaylord Kumm’s misrepresentations, Sun Life acted and was deceived to its injury.

2. Sun Life, under the undisputed facts and as a matter of law, is entitled to rescission of the \$10 million life insurance policy it issued to Gaylord Kumm in 2006; and

3. Defendants are not, under the undisputed facts and as a matter of law, entitled to judgment on its counterclaim for payment of the \$10 million benefit of the life insurance policy.

Pursuant to NECivR 7.0.1, Sun Life contemporaneously files herein a Brief in Support of Motion for Partial Summary Judgment and an Index of Evidence in Support of Motion for Partial Summary Judgment including affidavits, deposition testimony, deposition exhibits and discovery responses.

WHEREFORE Sun Life respectfully requests the Court enter judgment as a matter of law in favor of Sun Life on Sun Life’s First and Second Claims for Relief of the Second Amended Complaint and Defendants’ Counterclaim.

Dated this 7th day of December, 2009.

SUN LIFE ASSURANCE COMPANY OF
CANADA, A FOREIGN CORPORATION,
Plaintiff

By s/ Matthew M. Enenbach

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CERTIFICATE OF SERVICE

I hereby certify that on December 7, 2009 I electronically filed the foregoing with the Clerk of the Court by using the CM/ECF system, which sent notification of such electronic filing to the following:

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s/ Matthew M. Enenbach

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